

MAR 01 2010

PTO/SB/68 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Docket Number (Optional)

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))**

RECEIVED

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Fax: (571) 273-8300

MAR 08 2010

03/05/2010 DALLEN 00000040 6000840

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**OFFICE OF PETITIONS**

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,808,840Application Number 09/839,786Issue Date 10/26/2004Filing Date 4/19/2001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

**Also complete the following information, if applicable**

The above -- identified patent

☐

Is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_

original application number \_\_\_\_\_

original filing date \_\_\_\_\_

☐

resulted from the entry into the U.S. under 35 U.S.C. 371 of international application \_\_\_\_\_

filed on \_\_\_\_\_

**CERTIFICATE OF MAILING (37 CFR 1.89(a))**

I hereby certify that this paper (\*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

3/1/2010

Date

/Tue Nguyen/

Signature

Tue Nguyen, Reg. No. #53,390

Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ \_\_\_\_\_

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$ 1,640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 1,640

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ \_\_\_\_\_

☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_

☒ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. \_\_\_\_\_

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PTO/SB/88 (03-09)

## OFFICE OF PETITIONS

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 7. OVERPAYMENT

As to any overpayment made please

OR

☐

Credit to Deposit Account No. \_\_\_\_\_

☐

Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

## 9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

/Tue Nguyen/

Signature(s) of Petitioner(s)

2/27/2010

Date

Tue Nguyen

Typed or printed name(s)

53,390

Registration Number, if applicable

510-299-7240

Telephone Number

496 Olive Ave., Fremont, CA 94539

Address

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

## ENCLOSURES

☒

Maintenance Fee Payment

☒

Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐

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February 27, 2010

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MAR 08 2010

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

OFFICE OF PETITIONS

**STATEMENT FOR DELAY IN PAYMENT OF THE MAINTENANCE FEES**

Sir:

Petitioner states that the delay in payment of the maintenance fees for the following patents is unintentional:

6,808,840; issued 10/26/2004 T.W.

6,811,916; issued 11/2/2004

6,852,443; issued 2/8/2005

6,924,058; issued 8/2/2005

Neah Power Systems is a technology company, and has put significant emphasis on innovations and intellectual properties. Neah Power Systems first became aware of the abandonment status of the above-mentioned patents after recently being informed by its counsel and has immediately taken actions to correct the situation.

Petitioner states that the delay in payment of the maintenance fees for the above mentioned patents is unintentional, and respectfully requests that the delayed payment of the maintenance fees be accepted and the patents reinstated.

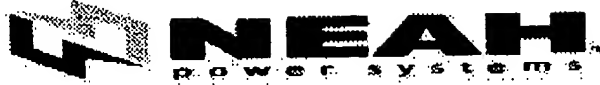
Respectfully submitted,

/Tue Nguyen/

Tue Nguyen

Reg. # 53,390

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MAR 01 2010

MAR 08 2010

OFFICE OF PETITIONS

February 24, 2010

Mail Stop: Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**STATEMENT FOR DELAY IN PAYMENT OF THE MAINTENANCE FEES**

Dear Sir/Madam:

Petitioner states that the delay in payment of the maintenance fees  
for the following patents was unintentional:

6,808,840; issued 10/26/2004

6,811,916; issued 11/2/2004

6,852,443; issued 2/8/2005

6,924,058; issued 8/2/2005

Please contact me with any questions or comments.

Respectfully submitted,

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MAR 01 2010

PTO/SB/06 (07-09)

Approved for use through 07/31/2012. OMB 0661-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## STATEMENT UNDER 37 CFR 3.73(b)

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OFFICE OF PETITIONS

Applicant/Patent Owner: NEAH POWER SYSTEMS, INC.Application No./Patent No.: 6,808,840 Filed/Issue Date: 10/26/2004Titled: SILICON-BASED FUEL CELL ELECTRODE STRUCTURES AND FUEL CELL ELECTRODE STACK ASSEMBLIESNEAH POWER SYSTEMS, INC., a Corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest in;
2. ☐ an assignee of less than the entire right, title, and interest in  
(The extent (by percentage) of its ownership interest is \_\_\_\_\_ %); or
3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made) the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy therefore is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: MALLARI, CHAN To: NEAH POWER SYSTEMS, INC.

The document was recorded in the United States Patent and Trademark Office at  
Reel 012185, Frame 0738, or for which a copy thereof is attached.

2. From: NEAH POWER SYSTEMS, INC. To: EPD INVESTMENT CO., LLC

The document was recorded in the United States Patent and Trademark Office at  
Reel 020125, Frame 0399, or for which a copy thereof is attached.

3. From: EPD INVESTMENT CO., LLC To: NEAH POWER SYSTEMS, INC.

The document was recorded in the United States Patent and Trademark Office at  
Reel 021531, Frame 0055, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

Stephen Wilson.

Printed or Typed Name

Date

CFO

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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